

FIRST REGULAR SESSION

# SENATE BILL NO. 304

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time January 17, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0922S.011

## AN ACT

To amend chapter 374, RSMo, by adding thereto three new sections relating to the Interstate Insurance Product Regulation Compact.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 374, RSMo, is amended by adding thereto three new sections, to be known as sections 374.350, 374.351, and 374.352, to read as follows:

**374.350. Sections 374.350 to 374.352 may be cited as the "Interstate Insurance Product Regulation Compact".**

**374.351. The Interstate Insurance Product Regulation Compact is intended to help States join together to establish an interstate compact to regulate designated insurance products. Pursuant to terms and conditions of this Act, the State of Missouri seeks to join with other States and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The Director of the Department of Insurance, Financial and Professional Regulation is hereby designated to serve as the representative of this State to the Commission.**

**374.352. The State of Missouri ratifies, approves, and adopts the following interstate compact:**

### ARTICLE I. PURPOSES

**The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:**

**1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;**

**2. To develop uniform standards for insurance products covered**

10 under the Compact;

11 3. To establish a central clearinghouse to receive and provide  
12 prompt review of insurance products covered under the Compact and,  
13 in certain cases, advertisements related thereto, submitted by insurers  
14 authorized to do business in one or more Compacting States;

15 4. To give appropriate regulatory approval to those product  
16 filings and advertisements satisfying the applicable uniform standard;

17 5. To improve coordination of regulatory resources and expertise  
18 between state insurance departments regarding the setting of uniform  
19 standards and review of insurance products covered under the  
20 Compact;

21 6. To create the Interstate Insurance Product Regulation  
22 Commission; and

23 7. To perform these and such other related functions as may be  
24 consistent with the state regulation of the business of insurance.

## 25 ARTICLE II. DEFINITIONS

26 For purposes of this Compact:

27 1. "Advertisement" means any material designed to create public  
28 interest in a Product, or induce the public to purchase, increase,  
29 modify, reinstate, borrow on, surrender, replace or retain a policy, as  
30 more specifically defined in the Rules and Operating Procedures of the  
31 Commission.

32 2. "Bylaws" mean those bylaws established by the Commission for  
33 its governance, or for directing or controlling the Commission's actions  
34 or conduct.

35 3. "Compacting State" means any State which has enacted this  
36 Compact legislation and which has not withdrawn pursuant to Article  
37 XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

38 4. "Commission" means the "Interstate Insurance Product  
39 Regulation Commission" established by this Compact.

40 5. "Commissioner" means the chief insurance regulatory official  
41 of a State including, but not limited to commissioner, superintendent,  
42 director or administrator.

43 6. "Domiciliary State" means the state in which an Insurer is  
44 incorporated or organized; or, in the case of an alien Insurer, its state  
45 of entry.

46 7. "Insurer" means any entity licensed by a State to issue

47 contracts of insurance for any of the lines of insurance covered by this  
48 Act.

49 8. "Member" means the person chosen by a Compacting State as  
50 its representative to the Commission, or his or her designee.

51 9. "Non-compacting State" means any State which is not at the  
52 time a Compacting State.

53 10. "Operating Procedures" mean procedures promulgated by the  
54 Commission implementing a Rule, Uniform Standard or a provision of  
55 this Compact.

56 11. "Product" means the form of a policy or contract, including  
57 any application, endorsement, or related form which is attached to and  
58 made a part of the policy or contract, and any evidence of coverage or  
59 certificate, for an individual or group annuity, life insurance, disability  
60 income or long-term care insurance product that an Insurer is  
61 authorized to issue.

62 12. "Rule" means a statement of general or particular  
63 applicability and future effect promulgated by the Commission,  
64 including a Uniform Standard developed pursuant to Article VII of this  
65 Compact, designed to implement, interpret, or prescribe law or policy  
66 or describing the organization, procedure, or practice requirements of  
67 the Commission, which shall have the force and effect of law in the  
68 Compacting States.

69 13. "State" means any state, district or territory of the United  
70 States of America.

71 14. "Third-Party Filer" means an entity that submits a Product  
72 filing to the Commission on behalf of an Insurer.

73 15. "Uniform Standard" means a standard adopted by the  
74 Commission for a Product line, pursuant to Article VII of this Compact,  
75 and shall include all of the Product requirements in aggregate;  
76 provided, that each Uniform Standard shall be construed, whether  
77 express or implied, to prohibit the use of any inconsistent, misleading  
78 or ambiguous provisions in a Product and the form of the Product made  
79 available to the public shall not be unfair, inequitable or against public  
80 policy as determined by the Commission.

### 81 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

82 1. The Compacting States hereby create and establish a joint  
83 public agency known as the "Interstate Insurance Product Regulation

84 Commission." Pursuant to Article IV, the Commission will have the  
85 power to develop Uniform Standards for Product lines, receive and  
86 provide prompt review of Products filed therewith, and give approval  
87 to those Product filings satisfying applicable Uniform Standards;  
88 provided, it is not intended for the Commission to be the exclusive  
89 entity for receipt and review of insurance product filings. Nothing  
90 herein shall prohibit any Insurer from filing its product in any State  
91 wherein the Insurer is licensed to conduct the business of insurance;  
92 and any such filing shall be subject to the laws of the State where filed.

93 2. The Commission is a body corporate and politic, and an  
94 instrumentality of the Compacting States.

95 3. The Commission is solely responsible for its liabilities except  
96 as otherwise specifically provided in this Compact.

97 4. Venue is proper and judicial proceedings by or against the  
98 Commission shall be brought solely and exclusively in a Court of  
99 competent jurisdiction where the principal office of the Commission is  
100 located.

#### 101 ARTICLE IV. POWERS OF THE COMMISSION

102 The Commission shall have the following powers:

103 1. To promulgate Rules, pursuant to Article VII of this Compact,  
104 which shall have the force and effect of law and shall be binding in the  
105 Compacting States to the extent and in the manner provided in this  
106 Compact;

107 2. To exercise its rulemaking authority and establish reasonable  
108 Uniform Standards for Products covered under the Compact, and  
109 Advertisement related thereto, which shall have the force and effect of  
110 law and shall be binding in the Compacting States, but only for those  
111 Products filed with the Commission, provided, that a Compacting State  
112 shall have the right to opt out of such Uniform Standard pursuant to  
113 Article VII, to the extent and in the manner provided in this Compact,  
114 and, provided further, that any Uniform Standard established by the  
115 Commission for long-term care insurance products may provide the  
116 same or greater protections for consumers as, but shall not provide less  
117 than, those protections set forth in the National Association of  
118 Insurance Commissioners' Long-Term Care Insurance Model Act and  
119 Long-Term Care Insurance Model Regulation, respectively, adopted as  
120 of 2001. The Commission shall consider whether any subsequent

121 amendments to the NAIC Long-Term Care Insurance Model Act or Long-  
122 Term Care Insurance Model Regulation adopted by the NAIC require  
123 amending of the Uniform Standards established by the Commission for  
124 long-term care insurance products;

125       3. To receive and review in an expeditious manner Products filed  
126 with the Commission, and rate filings for disability income and long-  
127 term care insurance Products, and give approval of those Products and  
128 rate filings that satisfy the applicable Uniform Standard, where such  
129 approval shall have the force and effect of law and be binding on the  
130 Compacting States to the extent and in the manner provided in the  
131 Compact;

132       4. To receive and review in an expeditious manner  
133 Advertisement relating to long-term care insurance products for which  
134 Uniform Standards have been adopted by the Commission, and give  
135 approval to all Advertisement that satisfies the applicable Uniform  
136 Standard. For any product covered under this Compact, other than  
137 long-term care insurance products, the Commission shall have the  
138 authority to require an insurer to submit all or any part of its  
139 Advertisement with respect to that product for review or approval  
140 prior to use, if the Commission determines that the nature of the  
141 product is such that an Advertisement of the product could have the  
142 capacity or tendency to mislead the public. The actions of Commission  
143 as provided in this section shall have the force and effect of law and  
144 shall be binding in the Compacting States to the extent and in the  
145 manner provided in the Compact;

146       5. To exercise its rulemaking authority and designate Products  
147 and Advertisement that may be subject to a self-certification process  
148 without the need for prior approval by the Commission.

149       6. To promulgate Operating Procedures, pursuant to Article VII  
150 of this Compact, which shall be binding in the Compacting States to the  
151 extent and in the manner provided in this Compact;

152       7. To bring and prosecute legal proceedings or actions in its  
153 name as the Commission; provided, that the standing of any state  
154 insurance department to sue or be sued under applicable law shall not  
155 be affected;

156       8. To issue subpoenas requiring the attendance and testimony of  
157 witnesses and the production of evidence;

- 158           **9. To establish and maintain offices;**
- 159           **10. To purchase and maintain insurance and bonds;**
- 160           **11. To borrow, accept or contract for services of personnel,**  
161 **including, but not limited to, employees of a Compacting State;**
- 162           **12. To hire employees, professionals or specialists, and elect or**  
163 **appoint officers, and to fix their compensation, define their duties and**  
164 **give them appropriate authority to carry out the purposes of the**  
165 **Compact, and determine their qualifications; and to establish the**  
166 **Commission's personnel policies and programs relating to, among other**  
167 **things, conflicts of interest, rates of compensation and qualifications of**  
168 **personnel;**
- 169           **13. To accept any and all appropriate donations and grants of**  
170 **money, equipment, supplies, materials and services, and to receive,**  
171 **utilize and dispose of the same; provided that at all times the**  
172 **Commission shall strive to avoid any appearance of impropriety;**
- 173           **14. To lease, purchase, accept appropriate gifts or donations of,**  
174 **or otherwise to own, hold, improve or use, any property, real, personal**  
175 **or mixed; provided that at all times the Commission shall strive to**  
176 **avoid any appearance of impropriety;**
- 177           **15. To sell, convey, mortgage, pledge, lease, exchange, abandon**  
178 **or otherwise dispose of any property, real, personal or mixed;**
- 179           **16. To remit filing fees to Compacting States as may be set forth**  
180 **in the Bylaws, Rules or Operating Procedures;**
- 181           **17. To enforce compliance by Compacting States with Rules,**  
182 **Uniform Standards, Operating Procedures and Bylaws;**
- 183           **18. To provide for dispute resolution among Compacting States;**
- 184           **19. To advise Compacting States on issues relating to Insurers**  
185 **domiciled or doing business in Non-compacting jurisdictions, consistent**  
186 **with the purposes of this Compact;**
- 187           **20. To provide advice and training to those personnel in state**  
188 **insurance departments responsible for product review, and to be a**  
189 **resource for state insurance departments;**
- 190           **21. To establish a budget and make expenditures;**
- 191           **22. To borrow money;**
- 192           **23. To appoint committees, including advisory committees comprising**  
193 **Members, state insurance regulators, state legislators or their**  
194 **representatives, insurance industry and consumer representatives, and such**

195 other interested persons as may be designated in the Bylaws;

196 24. To provide and receive information from, and to cooperate  
197 with law enforcement agencies;

198 25. To adopt and use a corporate seal; and

199 26. To perform such other functions as may be necessary or  
200 appropriate to achieve the purposes of this Compact consistent with  
201 the state regulation of the business of insurance.

202 **ARTICLE V. ORGANIZATION OF THE COMMISSION**

203 **1. Membership, Voting and Bylaws**

204 a. Each Compacting State shall have and be limited to one  
205 Member. Each Member shall be qualified to serve in that capacity  
206 pursuant to applicable law of the Compacting State. Any Member may  
207 be removed or suspended from office as provided by the law of the  
208 State from which he or she shall be appointed. Any vacancy occurring  
209 in the Commission shall be filled in accordance with the laws of the  
210 Compacting State wherein the vacancy exists. Nothing herein shall be  
211 construed to affect the manner in which a Compacting State determines  
212 the election or appointment and qualification of its own Commissioner.

213 b. Each Member shall be entitled to one vote and shall have an  
214 opportunity to participate in the governance of the Commission in  
215 accordance with the Bylaws. Notwithstanding any provision herein to  
216 the contrary, no action of the Commission with respect to the  
217 promulgation of a Uniform Standard shall be effective unless two-thirds  
218 (2/3) of the Members vote in favor thereof.

219 c. The Commission shall, by a majority of the Members, prescribe  
220 Bylaws to govern its conduct as may be necessary or appropriate to  
221 carry out the purposes, and exercise the powers, of the Compact,  
222 including, but not limited to:

223 i. Establishing the fiscal year of the Commission;

224 ii. Providing reasonable procedures for appointing and electing  
225 members, as well as holding meetings, of the Management Committee;

226 iii. Providing reasonable standards and procedures: (i) for the  
227 establishment and meetings of other committees, and (ii) governing any  
228 general or specific delegation of any authority or function of the  
229 Commission;

230 iv. Providing reasonable procedures for calling and conducting  
231 meetings of the Commission that consists of a majority of Commission

232 members, ensuring reasonable advance notice of each such meeting and  
233 providing for the right of citizens to attend each such meeting with  
234 enumerated exceptions designed to protect the public's interest, the  
235 privacy of individuals, and insurers' proprietary information, including  
236 trade secrets. The Commission may meet in camera only after a  
237 majority of the entire membership votes to close a meeting *en toto* or  
238 in part. As soon as practicable, the Commission must make public (i)  
239 a copy of the vote to close the meeting revealing the vote of each  
240 Member with no proxy votes allowed, and (ii) votes taken during such  
241 meeting;

242 v. Establishing the titles, duties and authority and reasonable  
243 procedures for the election of the officers of the Commission;

244 vi. Providing reasonable standards and procedures for the  
245 establishment of the personnel policies and programs of the  
246 Commission. Notwithstanding any civil service or other similar laws  
247 of any Compacting State, the Bylaws shall exclusively govern the  
248 personnel policies and programs of the Commission;

249 vii. Promulgating a code of ethics to address permissible and  
250 prohibited activities of commission members and employees; and

251 viii. Providing a mechanism for winding up the operations of the  
252 Commission and the equitable disposition of any surplus funds that  
253 may exist after the termination of the Compact after the payment  
254 and/or reserving of all of its debts and obligations.

255 d. The Commission shall publish its bylaws in a convenient form  
256 and file a copy thereof and a copy of any amendment thereto, with the  
257 appropriate agency or officer in each of the Compacting States.

## 258 2. Management Committee, Officers and Personnel

259 a. A Management Committee comprising no more than fourteen  
260 (14) members shall be established as follows:

261 i. One (1) member from each of the six (6) Compacting States  
262 with the largest premium volume for individual and group annuities,  
263 life, disability income and long-term care insurance products,  
264 determined from the records of the NAIC for the prior year;

265 ii. Four (4) members from those Compacting States with at least  
266 two percent (2%) of the market based on the premium volume described  
267 above, other than the six (6) Compacting States with the largest  
268 premium volume, selected on a rotating basis as provided in the

269 **Bylaws; and**

270 **iii. Four (4) members from those Compacting States with less**  
271 **than two percent (2%) of the market, based on the premium volume**  
272 **described above, with one (1) selected from each of the four (4) zone**  
273 **regions of the NAIC as provided in the Bylaws.**

274 **b. The Management Committee shall have such authority and**  
275 **duties as may be set forth in the Bylaws, including but not limited to:**

276 **i. Managing the affairs of the Commission in a manner consistent**  
277 **with the Bylaws and purposes of the Commission;**

278 **ii. Establishing and overseeing an organizational structure**  
279 **within, and appropriate procedures for, the Commission to provide for**  
280 **the creation of Uniform Standards and other Rules, receipt and review**  
281 **of product filings, administrative and technical support functions,**  
282 **review of decisions regarding the disapproval of a product filing, and**  
283 **the review of elections made by a Compacting State to opt out of a**  
284 **Uniform Standard; provided that a Uniform Standard shall not be**  
285 **submitted to the Compacting States for adoption unless approved by**  
286 **two-thirds (2/3) of the members of the Management Committee;**

287 **iii. Overseeing the offices of the Commission; and**

288 **iv. Planning, implementing, and coordinating communications**  
289 **and activities with other state, federal and local government**  
290 **organizations in order to advance the goals of the Commission.**

291 **c. The Commission shall elect annually officers from the**  
292 **Management Committee, with each having such authority and duties,**  
293 **as may be specified in the Bylaws.**

294 **d. The Management Committee may, subject to the approval of**  
295 **the Commission, appoint or retain an executive director for such**  
296 **period, upon such terms and conditions and for such compensation as**  
297 **the Commission may deem appropriate. The executive director shall**  
298 **serve as secretary to the Commission, but shall not be a Member of the**  
299 **Commission. The executive director shall hire and supervise such**  
300 **other staff as may be authorized by the Commission.**

301 **3. Legislative and Advisory Committees**

302 **a. A legislative committee comprising state legislators or their**  
303 **designees shall be established to monitor the operations of, and make**  
304 **recommendations to, the Commission, including the Management**  
305 **Committee; provided that the manner of selection and term of any**

306 legislative committee member shall be as set forth in the Bylaws. Prior  
307 to the adoption by the Commission of any Uniform Standard, revision  
308 to the Bylaws, annual budget or other significant matter as may be  
309 provided in the Bylaws, the Management Committee shall consult with  
310 and report to the legislative committee.

311       b. The Commission shall establish two (2) advisory committees,  
312 one of which shall comprise consumer representatives independent of  
313 the insurance industry, and the other comprising insurance industry  
314 representatives.

315       c. The Commission may establish additional advisory committees  
316 as its Bylaws may provide for the carrying out of its functions.

317       **4. Corporate Records of the Commission**

318       The Commission shall maintain its corporate books and records  
319 in accordance with the Bylaws.

320       **5. Qualified Immunity, Defense and Indemnification**

321       a. The Members, officers, executive director, employees and  
322 representatives of the Commission shall be immune from suit and  
323 liability, either personally or in their official capacity, for any claim for  
324 damage to or loss of property or personal injury or other civil liability  
325 caused by or arising out of any actual or alleged act, error or omission  
326 that occurred, or that the person against whom the claim is made had  
327 a reasonable basis for believing occurred within the scope of  
328 Commission employment, duties or responsibilities; provided, that  
329 nothing in this paragraph shall be construed to protect any such person  
330 from suit and/or liability for any damage, loss, injury or liability caused  
331 by the intentional or willful and wanton misconduct of that person.

332       b. The Commission shall defend any Member, officer, executive  
333 director, employee or representative of the Commission in any civil  
334 action seeking to impose liability arising out of any actual or alleged  
335 act, error or omission that occurred within the scope of Commission  
336 employment, duties or responsibilities, or that the person against whom  
337 the claim is made had a reasonable basis for believing occurred within  
338 the scope of Commission employment, duties or responsibilities;  
339 provided, that nothing herein shall be construed to prohibit that person  
340 from retaining his or her own counsel; and provided further, that the  
341 actual or alleged act, error or omission did not result from that  
342 person's intentional or willful and wanton misconduct.

343 c. The Commission shall indemnify and hold harmless any  
344 Member, officer, executive director, employee or representative of the  
345 Commission for the amount of any settlement or judgment obtained  
346 against that person arising out of any actual or alleged act, error or  
347 omission that occurred within the scope of Commission employment,  
348 duties or responsibilities, or that such person had a reasonable basis  
349 for believing occurred within the scope of Commission employment,  
350 duties or responsibilities, provided, that the actual or alleged act, error  
351 or omission did not result from the intentional or willful and wanton  
352 misconduct of that person.

353 **ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION**

354 1. The Commission shall meet and take such actions as are  
355 consistent with the provisions of this Compact and the Bylaws.

356 2. Each Member of the Commission shall have the right and  
357 power to cast a vote to which that Compacting State is entitled and to  
358 participate in the business and affairs of the Commission. A Member  
359 shall vote in person or by such other means as provided in the  
360 Bylaws. The Bylaws may provide for Members' participation in  
361 meetings by telephone or other means of communication.

362 3. The Commission shall meet at least once during each calendar  
363 year. Additional meetings shall be held as set forth in the Bylaws.

364 **ARTICLE VII. RULES AND OPERATING PROCEDURES:**

365 **RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING**  
366 **OUT OF UNIFORM STANDARDS**

367 1. Rulemaking Authority. The Commission shall promulgate  
368 reasonable Rules, including Uniform Standards, and Operating  
369 Procedures in order to effectively and efficiently achieve the purposes  
370 of this Compact. Notwithstanding the foregoing, in the event the  
371 Commission exercises its rulemaking authority in a manner that is  
372 beyond the scope of the purposes of this Act, or the powers granted  
373 hereunder, then such an action by the Commission shall be invalid and  
374 have no force and effect.

375 2. Rulemaking Procedure. Rules and Operating Procedures shall  
376 be made pursuant to a rulemaking process that conforms to the Model  
377 State Administrative Procedure Act of 1981 as amended, as may be  
378 appropriate to the operations of the Commission. Before the  
379 Commission adopts a Uniform Standard, the Commission shall give

380 written notice to the relevant state legislative committee(s) in each  
381 Compacting State responsible for insurance issues of its intention to  
382 adopt the Uniform Standard. The Commission in adopting a Uniform  
383 Standard shall consider fully all submitted materials and issue a  
384 concise explanation of its decision.

385           3. Effective Date and Opt Out of a Uniform Standard. A Uniform  
386 Standard shall become effective ninety (90) days after its promulgation  
387 by the Commission or such later date as the Commission may  
388 determine; provided, however, that a Compacting State may opt out of  
389 a Uniform Standard as provided in this Article. "Opt out" shall be  
390 defined as any action by a Compacting State to decline to adopt or  
391 participate in a promulgated Uniform Standard. All other Rules and  
392 Operating Procedures, and amendments thereto, shall become effective  
393 as of the date specified in each Rule, Operating Procedure or  
394 amendment.

395           4. Opt Out Procedure. A Compacting State may opt out of a  
396 Uniform Standard, either by legislation or regulation duly promulgated  
397 by the Insurance Department under the Compacting State's  
398 Administrative Procedure Act. If a Compacting State elects to opt out  
399 of a Uniform Standard by regulation, it must (a) give written notice to  
400 the Commission no later than ten (10) business days after the Uniform  
401 Standard is promulgated, or at the time the State becomes a  
402 Compacting State and (b) find that the Uniform Standard does not  
403 provide reasonable protections to the citizens of the State, given the  
404 conditions in the State. The Commissioner shall make specific findings  
405 of fact and conclusions of law, based on a preponderance of the  
406 evidence, detailing the conditions in the State which warrant a  
407 departure from the Uniform Standard and determining that the  
408 Uniform Standard would not reasonably protect the citizens of the  
409 State. The Commissioner must consider and balance the following  
410 factors and find that the conditions in the State and needs of the  
411 citizens of the State outweigh: (i) the intent of the legislature to  
412 participate in, and the benefits of, an interstate agreement to establish  
413 national uniform consumer protections for the Products subject to this  
414 Act; and (ii) the presumption that a Uniform Standard adopted by the  
415 Commission provides reasonable protections to consumers of the  
416 relevant Product. Notwithstanding the foregoing, a Compacting State

417 may, at the time of its enactment of this Compact, prospectively opt out  
418 of all Uniform Standards involving long-term care insurance products  
419 by expressly providing for such opt out in the enacted Compact, and  
420 such an opt out shall not be treated as a material variance in the offer  
421 or acceptance of any State to participate in this Compact. Such an opt  
422 out shall be effective at the time of enactment of this Compact by the  
423 Compacting State and shall apply to all existing Uniform Standards  
424 involving long-term care insurance products and those subsequently  
425 promulgated.

426       **5. Effect of Opt Out.** If a Compacting State elects to opt out of a  
427 Uniform Standard, the Uniform Standard shall remain applicable in the  
428 Compacting State electing to opt out until such time the opt out  
429 legislation is enacted into law or the regulation opting out becomes  
430 effective. Once the opt out of a Uniform Standard by a Compacting  
431 State becomes effective as provided under the laws of that State, the  
432 Uniform Standard shall have no further force and effect in that State  
433 unless and until the legislation or regulation implementing the opt out  
434 is repealed or otherwise becomes ineffective under the laws of the  
435 State. If a Compacting State opts out of a Uniform Standard after the  
436 Uniform Standard has been made effective in that State, the opt out  
437 shall have the same prospective effect as provided under Article XIV  
438 for withdrawals.

439       **6. Stay of Uniform Standard.** If a Compacting State has formally  
440 initiated the process of opting out of a Uniform Standard by regulation,  
441 and while the regulatory opt out is pending, the Compacting State may  
442 petition the Commission, at least fifteen (15) days before the effective  
443 date of the Uniform Standard, to stay the effectiveness of the Uniform  
444 Standard in that State. The Commission may grant a stay if it  
445 determines the regulatory opt out is being pursued in a reasonable  
446 manner and there is a likelihood of success. If a stay is granted or  
447 extended by the Commission, the stay or extension thereof may  
448 postpone the effective date by up to ninety (90) days, unless  
449 affirmatively extended by the Commission; provided, a stay may not be  
450 permitted to remain in effect for more than one (1) year unless the  
451 Compacting State can show extraordinary circumstances which  
452 warrant a continuance of the stay, including, but not limited to, the  
453 existence of a legal challenge which prevents the Compacting State

454 from opting out. A stay may be terminated by the Commission upon  
455 notice that the rulemaking process has been terminated.

456         7. Not later than thirty (30) days after a Rule or Operating  
457 Procedure is promulgated, any person may file a petition for judicial  
458 review of the Rule or Operating Procedure; provided, that the filing of  
459 such a petition shall not stay or otherwise prevent the Rule or  
460 Operating Procedure from becoming effective unless the court finds  
461 that the petitioner has a substantial likelihood of success. The court  
462 shall give deference to the actions of the Commission consistent with  
463 applicable law and shall not find the Rule or Operating Procedure to  
464 be unlawful if the Rule or Operating Procedure represents a reasonable  
465 exercise of the Commission's authority.

466         **ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT**

467         1. The Commission shall promulgate Rules establishing  
468 conditions and procedures for public inspection and copying of its  
469 information and official records, except such information and records  
470 involving the privacy of individuals and insurers' trade secrets. The  
471 Commission may promulgate additional Rules under which it may make  
472 available to federal and state agencies, including law enforcement  
473 agencies, records and information otherwise exempt from disclosure,  
474 and may enter into agreements with such agencies to receive or  
475 exchange information or records subject to nondisclosure and  
476 confidentiality provisions.

477         2. Except as to privileged records, data and information, the laws  
478 of any Compacting State pertaining to confidentiality or nondisclosure  
479 shall not relieve any Compacting State Commissioner of the duty to  
480 disclose any relevant records, data or information to the Commission;  
481 provided, that disclosure to the Commission shall not be deemed to  
482 waive or otherwise affect any confidentiality requirement; and further  
483 provided, that, except as otherwise expressly provided in this Act, the  
484 Commission shall not be subject to the Compacting State's laws  
485 pertaining to confidentiality and nondisclosure with respect to records,  
486 data and information in its possession. Confidential information of the  
487 Commission shall remain confidential after such information is  
488 provided to any Commissioner.

489         3. The Commission shall monitor Compacting States for  
490 compliance with duly adopted Bylaws, Rules, including Uniform

491 **Standards, and Operating Procedures. The Commission shall notify any**  
492 **non-complying Compacting State in writing of its noncompliance with**  
493 **Commission Bylaws, Rules or Operating Procedures. If a non-**  
494 **complying Compacting State fails to remedy its noncompliance within**  
495 **the time specified in the notice of noncompliance, the Compacting State**  
496 **shall be deemed to be in default as set forth in Article XIV.**

497 **4. The Commissioner of any State in which an Insurer is**  
498 **authorized to do business, or is conducting the business of insurance,**  
499 **shall continue to exercise his or her authority to oversee the market**  
500 **regulation of the activities of the Insurer in accordance with the**  
501 **provisions of the State's law. The Commissioner's enforcement of**  
502 **compliance with the Compact is governed by the following provisions:**

503 **a. With respect to the Commissioner's market regulation of a**  
504 **Product or Advertisement that is approved or certified to the**  
505 **Commission, the content of the Product or Advertisement shall not**  
506 **constitute a violation of the provisions, standards or requirements of**  
507 **the Compact except upon a final order of the Commission, issued at the**  
508 **request of a Commissioner after prior notice to the Insurer and an**  
509 **opportunity for hearing before the Commission.**

510 **b. Before a Commissioner may bring an action for violation of**  
511 **any provision, standard or requirement of the Compact relating to the**  
512 **content of an Advertisement not approved or certified to the**  
513 **Commission, the Commission, or an authorized Commission officer or**  
514 **employee, must authorize the action. However, authorization pursuant**  
515 **to this paragraph does not require notice to the Insurer, opportunity**  
516 **for hearing or disclosure of requests for authorization or records of the**  
517 **Commission's action on such requests.**

#### 518 **ARTICLE IX. DISPUTE RESOLUTION**

519 **The Commission shall attempt, upon the request of a Member, to**  
520 **resolve any disputes or other issues that are subject to this Compact**  
521 **and which may arise between two or more Compacting States, or**  
522 **between Compacting States and Non-compacting States, and the**  
523 **Commission shall promulgate an Operating Procedure providing for**  
524 **resolution of such disputes.**

#### 525 **ARTICLE X. PRODUCT FILING AND APPROVAL**

526 **1. Insurers and Third-Party Filers seeking to have a Product**  
527 **approved by the Commission shall file the Product with, and pay**

528 applicable filing fees to, the Commission. Nothing in this Act shall be  
529 construed to restrict or otherwise prevent an insurer from filing its  
530 Product with the insurance department in any State wherein the  
531 insurer is licensed to conduct the business of insurance, and such filing  
532 shall be subject to the laws of the States where filed.

533         2. The Commission shall establish appropriate filing and review  
534 processes and procedures pursuant to Commission Rules and Operating  
535 Procedures. Notwithstanding any provision herein to the contrary, the  
536 Commission shall promulgate Rules to establish conditions and  
537 procedures under which the Commission will provide public access to  
538 Product filing information. In establishing such Rules, the Commission  
539 shall consider the interests of the public in having access to such  
540 information, as well as protection of personal medical and financial  
541 information and trade secrets, that may be contained in a Product  
542 filing or supporting information.

543         3. Any Product approved by the Commission may be sold or  
544 otherwise issued in those Compacting States for which the Insurer is  
545 legally authorized to do business.

#### 546         ARTICLE XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

547         1. Not later than thirty (30) days after the Commission has given  
548 notice of a disapproved Product or Advertisement filed with the  
549 Commission, the Insurer or Third Party Filer whose filing was  
550 disapproved may appeal the determination to a review panel appointed  
551 by the Commission. The Commission shall promulgate Rules to  
552 establish procedures for appointing such review panels and provide for  
553 notice and hearing. An allegation that the Commission, in disapproving  
554 a Product or Advertisement filed with the Commission, acted  
555 arbitrarily, capriciously, or in a manner that is an abuse of discretion  
556 or otherwise not in accordance with the law, is subject to judicial  
557 review in accordance with Article III, Section 4.

558         2. The Commission shall have authority to monitor, review and  
559 reconsider Products and Advertisement subsequent to their filing or  
560 approval upon a finding that the product does not meet the relevant  
561 Uniform Standard. Where appropriate, the Commission may withdraw  
562 or modify its approval after proper notice and hearing, subject to the  
563 appeal process in Section 1 above.

564

#### ARTICLE XII. FINANCE

565           1. The Commission shall pay or provide for the payment of the  
566 reasonable expenses of its establishment and organization. To fund the  
567 cost of its initial operations, the Commission may accept contributions  
568 and other forms of funding from the National Association of Insurance  
569 Commissioners, Compacting States and other sources. Contributions  
570 and other forms of funding from other sources shall be of such a nature  
571 that the independence of the Commission concerning the performance  
572 of its duties shall not be compromised.

573           2. The Commission shall collect a filing fee from each Insurer  
574 and Third Party Filer filing a product with the Commission to cover the  
575 cost of the operations and activities of the Commission and its staff in  
576 a total amount sufficient to cover the Commission's annual budget.

577           3. The Commission's budget for a fiscal year shall not be  
578 approved until it has been subject to notice and comment as set forth  
579 in Article VII of this Compact.

580           4. The Commission shall be exempt from all taxation in and by  
581 the Compacting States.

582           5. The Commission shall not pledge the credit of any Compacting  
583 State, except by and with the appropriate legal authority of that  
584 Compacting State.

585           6. The Commission shall keep complete and accurate accounts of  
586 all its internal receipts, including grants and donations, and  
587 disbursements of all funds under its control. The internal financial  
588 accounts of the Commission shall be subject to the accounting  
589 procedures established under its Bylaws. The financial accounts and  
590 reports including the system of internal controls and procedures of the  
591 Commission shall be audited annually by an independent certified  
592 public accountant. Upon the determination of the Commission, but no  
593 less frequently than every three (3) years, the review of the  
594 independent auditor shall include a management and performance  
595 audit of the Commission. The Commission shall make an Annual Report  
596 to the Governor and legislature of the Compacting States, which shall  
597 include a report of the independent audit. The Commission's internal  
598 accounts shall not be confidential and such materials may be shared  
599 with the Commissioner of any Compacting State upon request provided,  
600 however, that any work papers related to any internal or independent  
601 audit and any information regarding the privacy of individuals and

602 insurers' proprietary information, including trade secrets, shall remain  
603 confidential.

604         7. No Compacting State shall have any claim to or ownership of  
605 any property held by or vested in the Commission or to any  
606 Commission funds held pursuant to the provisions of this Compact.

607 **ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

608         1. Any State is eligible to become a Compacting State.

609         2. The Compact shall become effective and binding upon  
610 legislative enactment of the Compact into law by two Compacting  
611 States; provided, the Commission shall become effective for purposes  
612 of adopting Uniform Standards for, reviewing, and giving approval or  
613 disapproval of, Products filed with the Commission that satisfy  
614 applicable Uniform Standards only after twenty-six (26) States are  
615 Compacting States or, alternatively, by States representing greater  
616 than forty percent (40%) of the premium volume for life insurance,  
617 annuity, disability income and long-term care insurance products,  
618 based on records of the NAIC for the prior year. Thereafter, it shall  
619 become effective and binding as to any other Compacting State upon  
620 enactment of the Compact into law by that State.

621         3. Amendments to the Compact may be proposed by the  
622 Commission for enactment by the Compacting States. No amendment  
623 shall become effective and binding upon the Commission and the  
624 Compacting States unless and until all Compacting States enact the  
625 amendment into law.

626 **ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION**

627         1. **Withdrawal**

628         a. Once effective, the Compact shall continue in force and remain  
629 binding upon each and every Compacting State; provided, that a  
630 Compacting State may withdraw from the Compact ("Withdrawing  
631 State") by enacting a statute specifically repealing the statute which  
632 enacted the Compact into law.

633         b. The effective date of withdrawal is the effective date of the  
634 repealing statute. However, the withdrawal shall not apply to any  
635 product filings approved or self-certified, or any Advertisement of such  
636 products, on the date the repealing statute becomes effective, except by  
637 mutual agreement of the Commission and the Withdrawing State unless  
638 the approval is rescinded by the Withdrawing State as provided in

639 Paragraph e of this section.

640 c. The Commissioner of the Withdrawing State shall immediately  
641 notify the Management Committee in writing upon the introduction of  
642 legislation repealing this Compact in the Withdrawing State.

643 d. The Commission shall notify the other Compacting States of  
644 the introduction of such legislation within ten (10) days after its receipt  
645 of notice thereof.

646 e. The Withdrawing State is responsible for all obligations,  
647 duties and liabilities incurred through the effective date of withdrawal,  
648 including any obligations, the performance of which extend beyond the  
649 effective date of withdrawal, except to the extent those obligations may  
650 have been released or relinquished by mutual agreement of the  
651 Commission and the Withdrawing State. The Commission's approval of  
652 Products and Advertisement prior to the effective date of withdrawal  
653 shall continue to be effective and be given full force and effect in the  
654 Withdrawing State, unless formally rescinded by the Withdrawing State  
655 in the same manner as provided by the laws of the Withdrawing State  
656 for the prospective disapproval of products or advertisement  
657 previously approved under state law.

658 f. Reinstatement following withdrawal of any Compacting State  
659 shall occur upon the effective date of the Withdrawing State reenacting  
660 the Compact.

661 2. Default

662 a. If the Commission determines that any Compacting State has  
663 at any time defaulted ("Defaulting State") in the performance of any of  
664 its obligations or responsibilities under this Compact, the Bylaws or  
665 duly promulgated Rules or Operating Procedures, then, after notice and  
666 hearing as set forth in the Bylaws, all rights, privileges and benefits  
667 conferred by this Compact on the Defaulting State shall be suspended  
668 from the effective date of default as fixed by the Commission. The  
669 grounds for default include, but are not limited to, failure of a  
670 Compacting State to perform its obligations or responsibilities, and any  
671 other grounds designated in Commission Rules. The Commission shall  
672 immediately notify the Defaulting State in writing of the Defaulting  
673 State's suspension pending a cure of the default. The Commission shall  
674 stipulate the conditions and the time period within which the  
675 Defaulting State must cure its default. If the Defaulting State fails to

676 cure the default within the time period specified by the Commission,  
677 the Defaulting State shall be terminated from the Compact and all  
678 rights, privileges and benefits conferred by this Compact shall be  
679 terminated from the effective date of termination.

680       b. Product approvals by the Commission or product self-  
681 certifications, or any Advertisement in connection with such product,  
682 that are in force on the effective date of termination shall remain in  
683 force in the Defaulting State in the same manner as if the Defaulting  
684 State had withdrawn voluntarily pursuant to Section 1 of this article.

685       c. Reinstatement following termination of any Compacting State  
686 requires a reenactment of the Compact.

### 687       3. Dissolution of Compact

688       a. The Compact dissolves effective upon the date of the  
689 withdrawal or default of the Compacting State which reduces  
690 membership in the Compact to one Compacting State.

691       b. Upon the dissolution of this Compact, the Compact becomes  
692 null and void and shall be of no further force or effect, and the business  
693 and affairs of the Commission shall be wound up and any surplus funds  
694 shall be distributed in accordance with the Bylaws.

## 695       ARTICLE XV. SEVERABILITY AND CONSTRUCTION

696       1. The provisions of this Compact shall be severable; and if any  
697 phrase, clause, sentence or provision is deemed unenforceable, the  
698 remaining provisions of the Compact shall be enforceable.

699       2. The provisions of this Compact shall be liberally construed to  
700 effectuate its purposes.

## 701       ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

### 702       1. Other Laws

703       a. Nothing herein prevents the enforcement of any other law of  
704 a Compacting State, except as provided in Paragraph b of this section.

705       b. For any Product approved or certified to the Commission, the  
706 Rules, Uniform Standards and any other requirements of the  
707 Commission shall constitute the exclusive provisions applicable to the  
708 content, approval and certification of such Products. For  
709 Advertisement that is subject to the Commission's authority, any Rule,  
710 Uniform Standard or other requirement of the Commission which  
711 governs the content of the Advertisement shall constitute the exclusive  
712 provision that a Commissioner may apply to the content of the

713 **Advertisement.** Notwithstanding the foregoing, no action taken by the  
714 **Commission shall abrogate or restrict:** (i) the access of any person to  
715 **state courts;** (ii) remedies available under state law related to breach  
716 **of contract, tort, or other laws not specifically directed to the content**  
717 **of the Product;** (iii) state law relating to the construction of insurance  
718 **contracts;** or (iv) the authority of the attorney general of the state,  
719 **including but not limited to maintaining any actions or proceedings, as**  
720 **authorized by law.**

721 **c. All insurance products filed with individual States shall be**  
722 **subject to the laws of those States.**

723 **2. Binding Effect of this Compact**

724 **a. All lawful actions of the Commission, including all Rules and**  
725 **Operating Procedures promulgated by the Commission, are binding**  
726 **upon the Compacting States.**

727 **b. All agreements between the Commission and the Compacting**  
728 **States are binding in accordance with their terms.**

729 **c. Upon the request of a party to a conflict over the meaning or**  
730 **interpretation of Commission actions, and upon a majority vote of the**  
731 **Compacting States, the Commission may issue advisory opinions**  
732 **regarding the meaning or interpretation in dispute.**

733 **d. In the event any provision of this Compact exceeds the**  
734 **constitutional limits imposed on the legislature of any Compacting**  
735 **State, the obligations, duties, powers or jurisdiction sought to be**  
736 **conferred by that provision upon the Commission shall be ineffective**  
737 **as to that Compacting State, and those obligations, duties, powers or**  
738 **jurisdiction shall remain in the Compacting State and shall be**  
739 **exercised by the agency thereof to which those obligations, duties,**  
740 **powers or jurisdiction are delegated by law in effect at the time this**  
741 **Compact becomes effective.**

✓